



# Indiana Judicial Nominating Commission

30 South Meridian Street, Suite 500  
Indianapolis, IN 46204  
(317) 232-4706

## Application for the Indiana Supreme Court

The application for the Spring 2016 vacancy on the Indiana Supreme Court includes two parts. Both Part One and Part Two must be completed. Part Two *must* be provided separately as directed in the instructions. Answers in Part One and Part Two are a matter of public record and will be supplied to the media and public upon request. However, only answers in Part One may be posted online by the Indiana Judicial Nominating Commission.

### Part One, Sections 1-11

#### 1. Contact/General Information

A. Full legal name and any former names.

**Thomas Molnar Fisher**

B. State the full name (use initials for minor children), age, and relationship of each person residing in your household. For each adult living in the household (other than yourself), also state the person's occupation and employer.

Name	Age	Relationship	Occupation/Em ployer
Catherine J. Fisher	45	Spouse	Actuary Global Atlantic Financial Group, Ltd.
TGF, II	15	Son	N/A
ECF	13	Daughter	N/A
AAF	10	Daughter	N/A
DPF	7	Son	N/A

C. Business address, email, and telephone number.

**Office of the Attorney General**  
**302 West Washington Street**  
**IGC South, Fifth Floor**  
**Indianapolis, IN 46204**  
**317-232-6255**  
[tom.fisher@atg.in.gov](mailto:tom.fisher@atg.in.gov)

D. Attorney number.

**17949-49**

E. Month and year you were admitted to the Indiana Bar.

**October 1994**

a. Indicate current law license status, i.e. active/inactive/retired.

**Active**

b. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide date(s) of admission and current license status.

JURISDICTIONS	DATES OF ADMISSION	STATUS
PENNSYLVANIA	May 20, 1996	Inactive
DISTRICT OF COLUMBIA	June 5, 1997	Inactive

F. Date and place of birth.

**November 27, 1968, Rensselaer, Indiana**

G. County of current residence and date you first became a resident.

**Marion County, Indiana, since September 1998**

2. Secondary Education/Military Experience

- A. List all undergraduate colleges and universities you attended. Include the school name; dates enrolled; degree or certificate earned; and any academic honors, awards, or scholarships you received and when.

SCHOOLS	DATES	DEGREES	AWARDS
WABASH COLLEGE CRAWFORDSVILLE, INDIANA	Aug.1987- May 1991	A.B.	<i>Summa cum laude</i> (1991) Phi Beta Kappa (1991) George Lewes Mackintosh Fellowship (1991) N. Ryan Shaw, II Award in Political Science (1991) Distinction, oral and written comprehensive exams (1991) Waldo E. Stephens Award in Political Science (20% Tuition) (1990) Citation for paper in Political Science 2 (1988) Citation for performance in Cultures and Traditions 2 (1989) Dean's list 5/6 semesters President's Scholar (80% Tuition) (1987-1991)
UNIVERSITY OF ABERDEEN ABERDEEN, SCOTLAND	Oct.1989- May 1990	None	Kathleen Edwards Prize in Medieval History (1990)

- B. Include with your original application a certified transcript from each school named in Subsection 2A, and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.) **See attachments 1-2.**

- C. If applicable, list any military service. Include the name of the military branch; dates of service; last rank achieved; and any honors, awards, or commendations received and when. Attach a copy of your Certificate of Release or Discharge from active duty ("DD 214" paperwork). **N/A**

3. Post-Secondary Education

- A. List all law schools, graduate schools, and post-J.D. programs attended. Include the school name; dates enrolled; degree or certificate earned; class rank; and any academic honors, awards, or scholarships you received and when.

SCHOOLS	DATES	DEGREES/ RANKS	AWARDS
INDIANA UNIVERSITY MAURER SCHOOL OF LAW  BLOOMINGTON, INDIANA	Aug.1991- May 1994	J.D./Top 10%	<i>Magna cum laude</i> (1994) Order of the Coif (1994) Indiana Law Journal (1992-1994) Wendell Willkie Fellowship (\$500) (1992-1993) Law School Merit Scholarship (\$500) (1993-1994) Top Grade: Indiana Constitutional Law (1992) Top Grade: Federal Criminal Law (1993) Dean's Honors all semesters
WILLIAM AND MARY MARSHALL-WYTHE SCHOOL OF LAW SUMMER LAW PROGRAM UNIVERSITARIO SAN PABLO  MADRID, SPAIN	July 1992- August 1992	None	None

- B. Include with your original application a certified transcript from each school named in Subsection 3A, and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.) **See attachments 3-4.**

4. Employment

A. Provide your employment history since graduation from college. Include name of employer, titles or positions, locations, and dates of employment.

EMPLOYERS	DATES	POSITIONS
OFFICE OF THE ATTORNEY GENERAL 300 West Washington Street IGC South, Fifth Floor Indianapolis, IN 46204 (317) 232-6201	February 2001-present	Solicitor General (2005-present) Special Counsel (2001-2005)
BAKER & DANIELS 300 North Meridian Street Suite 2700 Indianapolis, IN 46204 (317) 237-0300	October 1998-February 2001	Associate Litigation Team
JONES, DAY, REAVIS & POGUE 51 Louisiana Avenue, N.W. Washington, D.C. 20001 (202) 879-3939	October 1995-September 1998	Associate Issues & Appeals Practice Group
THE HONORABLE MICHAEL S. KANNE UNITED STATES COURT OF APPEALS Halleck Federal Building Fourth and Ferry Streets Lafayette, IN 47941 (765) 420-6200	August 1994-August 1995	Law Clerk
BINGHAM SUMMERS WELSH & SPILMAN 2700 Market Tower 10 West Market Street Indianapolis, IN 46204 (317) 635-8900	May 1993-August 1993	Summer Associate
BUNGER & ROBERTSON 226 South College Avenue Bloomington, IN 47404-5177 (812) 332-9295	May 1992-May 1993 August 1993-July 1994	Law Clerk
THE OLD SPAGHETTI FACTORY 210 South Meridian Street Indianapolis, IN 46225-1019 (317) 635-6325	May 1991-August 1991	Waiter
INDIANA DINNER TRAIN/ NORMAN'S AT UNION STATION Indianapolis, IN	May 1991-August 1991	Waiter

B. If applicable, describe the nature and extent of your practice of law (present and former), and provide the names of your partners, associates, office mates, and employers.

Employers	Practices	Clients	Colleagues
Jones Day	Combination of appellate work and complex business litigation. Focused on constitutional law and intellectual property litigation, principally (but not exclusively) in federal courts.	The Lubrizol Corporation American Games, Inc. Micro Chemical, Inc. Washington Legal Foundation District of Columbia	Gregory A. Castanias Timothy B. Dyk Gregory Katsas Donald B. Ayer Lydia Arnold John Nalbandian David Adler
Baker & Daniels	Appellate and business litigation in state and federal courts. Continued focus on constitutional law and intellectual property litigation, but also including general business litigation.	Eli Lilly & Company CSX Transportation, Inc. City of Indianapolis Conseco, Inc.	Jay Ham Christopher G. Scanlon Matthew R. Gutwein David Harris Andrea Roberts Pierson John R. Schaibley, III Jay Yeager
Office of Attorney General	Chief legal policy advisor to the Attorney General. Appellate and trial court litigation in significant constitutional cases and other especially complex disputes in both state and federal courts. Gatekeeper for multi-state amicus participation. Responsible for all U.S. Supreme Court matters, which has included three oral arguments before the Court. Portfolio formerly (2001-2002) included enforcing the National Tobacco Master Settlement Agreement and related legislation.	The State of Indiana The Governor of Indiana The Attorney General of Indiana The Secretary of State of Indiana The Treasurer of Indiana The Auditor of Indiana The Indiana Superintendent of Public Instruction The Speaker of the Indiana House of Representatives The Chief Justice of Indiana Assorted Indiana state agencies and commissions and their officials	Steve Carter Greg Zoeller Gary Secrest Matt Light Patricia Erdmann Steve Creason Julie Brubaker Heather McVeigh Ashley Harwel Lara Langeneckert

## 5. Trial/Judicial Experience

- A.** Describe the extent of your jury trial experience, if any. **In law school I took a course in trial practice, which included trying a mock case to a jury. As a summer associate I assisted at a jury trial. I have been through voir dire as a prospective juror. I have defended jury verdicts on appeal.**
- B.** Describe the extent of your bench trial experience, if any. **I have experience presenting evidence and arguments in open court to federal and state trial courts in a variety of contexts. Listed below are cases where I made such presentations during both bench trials and hearings on motions for preliminary injunction (which are substantially similar in terms of practice). For each, I note whether the proceeding included witness testimony, submission of documentary evidence, or legal arguments. Furthermore, I have presented nearly 50 appellate oral arguments in federal and state courts, including three in the Supreme Court of the United States.**

Case	Court/Year	Description	Content
<i>Hodgkins v. Peterson</i>	S.D. Ind. 2002	Preliminary injunction hearing concerning constitutionality of juvenile curfew statute	Legal arguments
<i>Steve Martin &amp; Associates v. Carter</i>	Vanderburgh Cir. 2002	Trial on the merits defending do-not-call statute	Live witness testimony (others), documentary evidence (others), legal arguments (TMF)
<i>Hinrichs v. Bosma</i>	S.D. Ind. 2005	Trial on the merits concerning permissibility of legislative prayer under the Establishment Clause	Videotaped witness testimony, documentary evidence, legal arguments
<i>Bauer v. Shepard</i>	N.D. Ind. 2010	Preliminary injunction concerning canons governing judicial campaigns	Live witness testimony, legal arguments, documentary evidence

Case	Court/Year	Description	Content
<i>Planned Parenthood of Indiana v. Indiana State Department of Health</i>	S.D. Ind. 2011	Preliminary injunction hearing concerning statute disqualifying abortion providers from being Medicaid providers	Legal arguments, documentary evidence
<i>Crawford v. Berry</i>	Marion Sup. 2012	Preliminary injunction hearing (later converted to trial on the merits) concerning validity of legislative fines	Legal arguments, documentary evidence
<i>Center for Inquiry, Inc. v. Clerk, Marion Circuit Court</i>	S.D. Ind. 2012	Trial on the merits over whether leaders of non-religious organizations may solemnize marriages	Legal arguments, documentary evidence
<i>Baskin v. Bogan</i>	S.D. Ind. 2014	Preliminary injunction hearing concerning constitutionality of Indiana's traditional marriage definition	Legal arguments, documentary evidence
<i>Virgin Mobile v. Indiana Statewide 911 Board</i>	S.D. Ind. 2015	Preliminary injunction hearing concerning application of Indiana's 911 fee to federal universal service fund customers	Legal arguments, documentary evidence

C. If applicable, describe the nature and extent of your judicial experience (including as a judge *pro tempore*). Include a description of your experience presiding over jury trials, if any.

**None**



6. Professional Experience

*Include as writing samples, four selections (in total) from the written materials listed below in Subsections 6A – 6C.*

A. If applicable, list up to five trial or appellate briefs and/or judicial opinions you have written. Refer to them by caption, case number, and filing date.

CASES	FILING DATES	DESCRIPTIONS
Brief of State Appellees, <i>Meredith v. Pence</i> , 49S00-1203-PL-172 (Ind.)	April 11, 2012	This is the State’s brief to the Indiana Supreme Court defending Indiana’s school choice scholarship law from state constitutional challenge. Among other points, it examines the history and structure of the Indiana Constitution’s provisions relating to public school education, religious liberty, and religious establishment.
Brief of State Respondents, <i>Crawford v. Marion County Election Board</i> , Nos. 07-21, 07-25 (U.S.)	December 3, 2007	This is the State’s brief to the U.S. Supreme Court defending Indiana’s Voter ID Law from constitutional challenge.
Brief of Respondent, <i>Hammon v. Indiana</i> , No. 05-5705 (U.S.)	February 2, 2006	In this domestic violence case we argued to the U.S. Supreme Court that a victim’s statements to police concerning her immediate safety should not be deemed “testimonial” under the Confrontation Clause, but instead should be admissible at trial.
Brief of Appellee, <i>Clinic for Women v. Brizzi</i> , No. 49A05-0305-CV-259 (Ind. Ct. App.)	August 8, 2003	This brief defended Indiana’s abortion in-person counseling requirement against a challenge brought under several state constitutional provisions. It argues that the Indiana Constitution does not, based on its text, history and structure, afford a right to abortion. The Court of Appeals held otherwise, but we ultimately convinced the Indiana Supreme Court to uphold the in-person counseling statute.

CASES	FILING DATES	DESCRIPTIONS
<p>Respondents' Brief in Opposition to the Petition, <i>A Woman's Choice-East Side Women's Clinic v. Brizzi</i>, No. 02-935 (U.S.)</p>	<p>January 17, 2003</p>	<p>After successfully seeking reversal of a federal district court injunction against the enforcement of Indiana's abortion in-person counseling requirement, see 305 F.3d 684 (7<sup>th</sup> Cir. 2002), we successfully opposed en banc and certiorari review. This brief opposing certiorari received the Best Brief Award from the National Association of Attorneys General.</p>

- B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, date, and subject matter.

STATUTES	DATES	SUBJECT MATTER
SEA 394, Public Law 2010-40, Section 1, amending Ind. Code § 34-14-1-11	March 12, 2010	Clarifying circumstances where the attorney general may be heard in a declaratory judgment action and related procedure.
SEA 394, Public Law 2010-40, Section 2, adding Ind. Code art. 34-33.1	March 12, 2010	<p>Establishing that, in actions other than declaratory judgment actions, the attorney general must be notified of, and has a right to be heard in regard to, any challenge to the constitutionality of a state statute.</p> <p>Establishing that the attorney general has the right to file an <i>amicus curiae</i> brief in any matter pending in state court.</p>
SEA 509, Public Law 2005-165, Sections 1-5, adding Ind. Code § 5-22-3-7 and amending scattered sections within Ind. Code art. 5-22	May 6, 2005	Requiring government contractors to certify compliance with the Indiana Telephone Privacy Act.
HEA 1501, Public Law 2005-222, Section 23, adding Ind. Code ch. 5-11-5.5	May 11, 2005	Creating a False Claims and Whistleblower Protection Act (based on a model act but tailored to Indiana circumstances).

- C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.

ARTICLES	DESCRIPTIONS
Seventh Circuit Practice: <i>Certification of State Law Issues</i> , THE APPELLATE ADVOCATE, Spring 2009 (No. 47)	Discussed the standards for certifying questions from the Seventh Circuit to the Indiana Supreme Court and described several examples of cases featuring certified issues.
Seventh Circuit Practice: <i>Beware Jurisdictional Statements, Especially in Diversity Cases</i> , THE APPELLATE ADVOCATE, Summer 2007 (No. 41)	Discussed recent cases where the Seventh Circuit chastised counsel for fumbling jurisdictional statements.
Seventh Circuit Practice: <i>Proposed Federal Rule of Appellate Procedure 32.1: Should Citation to Unpublished Opinions Be Permitted?</i> , THE APPELLATE ADVOCATE, Summer 2004 (Vol. II No. 29)	Discussed proposed rule concerning citation to supplemental authority as well as advantages and disadvantages to different types of citation rules.
<i>Courtside</i> , THE COMMUNICATIONS LAWYER, Summer 1998 (Vol. 16 No. 2)	Discussed oral arguments in the Supreme Court of the United States in the First Amendment case <i>U.S. v. Finley</i> and the Court's recent First Amendment decision in <i>U.S. Debate Commission v. Forbes</i> .
Note: <i>Republican Constitutional Skepticism and Congressional Reform</i> , 69 IND. L.J. 1215 (1994)	Discussed philosophical underpinnings of the U.S. Constitution and analyzed whether proposals to alter the Constitution to impose congressional term limits and congressional campaign spending limits would be consistent with those underpinnings.

D. Identify the five most significant legal matters entrusted to you, whether as a judge or lawyer, and describe why you believe them to be so.

CASES	DESCRIPTIONS
<p><i>Meredith v. Pence</i>, 984 N.E.2d 113 (Ind. 2013)</p>	<p>This was a major multi-issue state constitutional challenge to Indiana’s school choice scholarship law. I served as lead counsel for the State defendants throughout the litigation, and the Court ultimately ruled our way and upheld the choice scholarship law by a vote of 5-0. Private school choice has long been an important issue to me, and the legislature’s decision to enact this program constituted one of the most significant educational reforms in decades.</p> <p>The case was important not only for the significant educational policy goals that the legislation advanced, but also for the development of state constitutional legal doctrine that the lawsuit itself prompted. Plaintiffs argued that spending taxpayer money on private school scholarships violated the “general and uniform system of common schools” clause of Article 8, section 1 of the Indiana Constitution; they also argued that permitting parents to use these scholarships to send their children to religious schools violated the religious liberty and disestablishment provisions of Article 1. We have very few Indiana Supreme Court cases interpreting these provisions, so this case represented a critical opportunity for the Court to say what they mean. I was thrilled to play a role in this seminal case.</p>

CASES	DESCRIPTIONS
<p><i>Indiana State Police Pension Trust et al. v. Chrysler LLC et al.</i>, 130 S.Ct. 2015 (2009)</p>	<p>In this matter I served as counsel of record, on behalf of the Indiana State Police Pension Trust, the Indiana Teachers Retirement Fund and the Indiana Major Moves Construction Fund, on a petition for writ of certiorari asking the U.S. Supreme Court to review the judgment of the Second Circuit, 576 F.3d 108 (2d Cir. 2009), approving a Section 363 bankruptcy disposition of essentially all Chrysler's assets to selected unsecured creditors. The petitioners, who were all first-lien secured creditors of Chrysler, were seeking to invalidate the efforts of the Obama Administration to award, in the context of a Chapter 11 bankruptcy, all valuable assets of Chrysler to unsecured creditors while leaving secured creditors with only partial payment.</p> <p>This case was especially significant because, as we wrote in the petition, it raised novel issues of bankruptcy law with far reaching consequences, the resolution of which would impact the Nation's capital markets, not to mention how this and future administrations would deal with troubled companies considered "too big to fail."</p> <p>Our efforts (including those of lawyers at White &amp; Case, who assisted as outside counsel) convinced Justice Ginsburg to stay briefly the closing of the sale. The Court ultimately allowed the sale to close, however, which then led it to grant our petition and vacate the judgment below as moot.</p>

CASES	DESCRIPTIONS
<p><i>Indiana v. Edwards</i>, 554 U.S. 164 (2008)</p>	<p>In <i>Edwards</i> I served as counsel of record in the U.S. Supreme Court and argued successfully that the Sixth Amendment does not guarantee the right of self-representation for a mentally impaired but trial-competent defendant. The State had lost on these grounds in the Indiana Supreme Court, but we convinced the U.S. Supreme Court that the issue had sufficient national significance—and was the subject of a sufficiently deep lower-court conflict—to justify plenary review. The case was especially significant because high-profile incidents around the country where mentally impaired individuals have represented themselves at trial have caused an erosion of confidence in the criminal justice system. I presented oral argument before the Court on March 26, 2008.</p>
<p><i>Crawford v. Marion County Election Board</i>, 553 U.S. 181 (2008)/<i>League of Women Voters v. Rokita</i>, 929 N.E.2d 758 (Ind. 2010)</p>	<p>In these cases I led teams of lawyers in successfully defending Indiana’s law requiring voters to present government-issued photo identification at the polls. I served as lead counsel for the State defendants throughout the litigation in both state and federal court, from the formulation of our defense strategies and briefing in the federal and state trial courts, through intermediate appellate courts, and on to oral arguments in the U.S. and Indiana Supreme Courts.</p> <p>The Voter ID matters are especially significant because of their national implications. Many states have enacted or considered a variety of Voter ID laws, and the U.S. Supreme Court decision now serves as guidance for writing such statutes, at least as far as the U.S. Constitution is concerned. The federal case generated considerable public attention and led to my appearances on multiple national news programs, including Lou Dobbs Tonight and C-Span’s Washington Journal. The State court case is also particularly significant given the popularity of the law and the constitutional issues that it raised.</p>

CASES	DESCRIPTIONS
<p><i>A Woman's Choice-East Side Women's Clinic v. Brizzi</i>, 537 U.S. 1192 (2003)/<i>Clinic for Women v. Brizzi</i>, 837 N.E.2d 973 (Ind. 2005)</p>	<p>After a federal district court enjoined the enforcement of Indiana's abortion in-person counseling requirement, I served as lead appellate counsel and secured reversal. See 305 F.3d 684 (7<sup>th</sup> Cir. 2002). We then successfully opposed en banc and certiorari review, with our certiorari brief receiving the Best Brief Award from the National Association of Attorneys General. Litigation over the in-person counseling requirement resumed in state court, and I led a team that persuaded the Indiana Supreme Court that the Indiana Constitution did not preclude the State from requiring a woman seeking an abortion to have an in-person consultation with her doctor 18 hours before the abortion. This case is especially significant for many reasons, not least of which is that it required exacting analysis of the text, history and structure of the Indiana Constitution concerning individual rights and the history of legislative protection of the unborn.</p>



7. Efforts to Improve the Legal System, Administration of Justice, or Society

- A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice. Include a description of any management or leadership roles you undertook to achieve these goals, and describe any specific instances in which your collaborative efforts helped achieve these goals.

As the first Solicitor General of Indiana, I have had the opportunity to improve the law, legal system and administration of justice on a daily basis by providing comprehensive review of legal policy and strategy in the office of the Attorney General and by providing advocacy on behalf of the State. Among many other matters that directly affect the administration of justice, I have defended the constitutional validity of Indiana's canons regulating judicial political campaigns, litigated rulings of the Indiana Supreme Court affecting the criminal process, and presented arguments to federal and state courts alike concerning the limits of judicial power. I (along with colleagues also listed on the briefs) have twice received the Best Brief Award from the National Association of Attorneys General for excellence in written advocacy in the U.S. Supreme Court. For a list of selected cases, see **Attachment 10**.

I have had the opportunity to teach both law school classes and CLE courses and to make speeches and presentations concerning the legal system, including on such topics as the role of the Attorney General within the legal profession, the immunity of state governments to private damages claims in federal court, citation to unpublished authority in state and federal courts, the proper uses of amicus briefs in state and federal courts, and the discovery of e-mail in litigation. I have participated as a moot court judge both for the Wabash College undergraduate competition and for the Maurer School of Law Sherman Minton competition, where I have twice judged in the final round. For a list of presentations, see pages 2-4 of Attachment 11. In 2004 I was presented with the Richard O. Ristine Award by the Wabash College pre-law society for my contributions to the pre-law program, including regularly judging the semifinal round of the College's moot court competition.

Furthermore I have long served as a member of the board for the Indianapolis Lawyers Chapter of the Federalist Society and was president of the chapter from 1999 until 2001. With the Federalist Society I have planned and participated in numerous debates, panel discussions and speeches focused on improving the law and the legal system. Topics of Federalist Society events that I have planned or taken part in include federalism, the Patient Protection and Affordable Care Act, Voter ID, multidisciplinary practice, environmental regulation, and educational choice, among others.

Since 2008 I have been a member of the Sagamore American Inn of Court, where I have contributed to presentations concerning litigation strategy, rules of trial and appellate procedure, use of the federal Espionage Act, and the 800th anniversary of Magna Carta.

In each of these presentations, I assumed a leadership role within my team and collaborated closely with teammates to create original presentations that were instructing, engaging and entertaining.

In addition I have drafted proposed statutes and rules concerning both substantive law and the legal process. (See Part 6.B., *supra*.) Also, I have written several articles for an Indiana State Bar Association Publication concerning the practice of law in the United

States Court of Appeals for the Seventh Circuit, I served for several years on the Seventh Circuit's Advisory Committee on Circuit Rules, and I currently serve on the Seventh Circuit's Pro Se Litigation Committee. On the pro se committee, we have collaborated on a new guide for pro se litigants in federal courts. I also serve on the Improvements in the Judiciary Committee of the Indiana State Bar Association.

- B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

In the course of my career I have made significant contributions and achieved significant results by pursuing state interests, defending state statutes, and litigating the actions of public officials in matters that necessarily have concerned civic, political and social issues. These matters have covered (among others) the following topics: administration of elections, voter identification, redress of public corruption, alcohol regulation, residential telephone privacy, same-sex marriage, abortion, federal health care reform, religion in the public square (including Ten Commandments displays and legislative prayer), predatory lending, trust regulation, the Great Lakes infestation by Asian Carp, coal gasification permits, educational funding, public school choice, and the leasing of the Indiana Toll Road.

The nature of my work has always been collaborative. To leverage our talents and efforts, I divide tasks for each case among several people in the Solicitor General Division, including other lawyers, law clerks, and my assistant. We collaborate as we build theories of a case, as we conduct discovery, as we outline and research arguments, and as we draft briefs. We are constantly trading ideas, drawing on one another's insights and critiques. This process has led to many successful results, including in defense of our Do-Not-Call Law, our Voter ID Law, and our School Choice Scholarship Law, among many others.

I have also participated in political and social issues by giving speeches and participating in debates on many of the same issues listed in the prior paragraph, including, for example, voter identification, religion in the public square and the constitutionality of the Patient Protection and Affordable Care Act of 2010.

My activities concerning civic, political and social issues go back to my college years. In college I wrote news articles and opinion pieces for the school newspaper on subjects ranging from campus war memorials to the 1988 gubernatorial race. I also volunteered for the College Republicans and various Republican campaigns and was paid to organize college students in support of the campaign of Senator Dan Coats. In law school I was less politically active (though I volunteered at Republican State Committee on a few occasions) but published a scholarly piece concerning the consistency of congressional term limits and campaign spending caps with various strains of the American constitutional tradition.

- C. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) to improve your local, state, or national community through charitable

work or public service. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

I have spent the majority of my career in public service, beginning with my Seventh Circuit clerkship immediately after law school and continuing, after five years in private practice, with my work in the Office of Attorney General, culminating with my service as Indiana's first Solicitor General for the past 10.5 years. As recounted above, my division in the Office of Attorney General has reached successful results through collaborative efforts on many occasions.

Outside the practice of law I have occasionally led adult Sunday school sessions and have discussed with school children why it is important that Abraham Lincoln was a lawyer. In addition I have served as a precinct committee member for the local Republican Party and volunteered for, and donated to, several political campaigns. I have also assisted at our children's school both as a Cub Scout den leader and as a reviewer of project proposals for Safe Routes to Schools. On several occasions I have been called upon to coach my children's youth sports teams.

Recently I have begun to serve on the advisory committee for the Wabash Democracy and Public Discourse initiative. WDPD teaches Wabash College students to facilitate community discussion of public issues as a means of fostering community collaboration. It builds on the philosophy of former Wabash Professor of Rhetoric W. Norwood Brigrance that public spiritedness and effective policymaking require active promotion of free speech as well as structured deliberation. I am particularly excited to assist WDPD in considering how to pursue its mission and find new communities where it can practice its deliberative process.

D. Describe the nature and extent of any *pro bono* legal services you have contributed.

CASES	DESCRIPTIONS
<i>Davis v. District of Columbia and Dwight Bynum</i> , 158 F.3d 1342 (D.C. Cir. 1998)	Successfully defended the constitutionality of a provision of the Prison Litigation Reform Act that restricts the rights of prisoners to sue for mental or emotional harm that occurs during incarceration. Presented oral argument on behalf of the District of Columbia before the United States Court of Appeals for the D.C. Circuit.
<i>Phillips v. Washington Legal Foundation</i> , 524 U.S. 156 (1998)	In case deciding that IOLTA funds are clients' property, drafted substantial portions of Washington Legal Foundation's certiorari and merits briefs; second-chaired oral argument in the U.S. Supreme Court.
Bread for the City and Zacchaeus Free Clinic	In the late 1990s I volunteered on one occasion at this multi-service free clinic in Washington, D.C., where I provided on-the-spot legal advice to indigent clients concerning landlord tenant disputes, public benefit claims and other issues.
<i>Gluzman v. United States</i> , No. 98-1326 (U.S.)	I represented the Texas Justice Foundation in the filing of a cert-stage amicus brief in a case challenging Congress's power to enact the criminal provisions of the Violence Against Women Act.
<i>McKee v. Joseph Goldsmith</i> , No. 49K01-9911-sc-9698	In 2000, I represented Mr. Goldsmith in a small claims dispute; reached out-of-court settlement.

E. Indicate your experience teaching law. Provide the dates, names of institutions or programs, and a description of the subject matter taught.

INSTITUTION	COURSES	DESCRIPTIONS	DATES
INDIANA UNIVERSITY MAURER SCHOOL OF LAW  ADJUNCT FACULTY TEACHING AWARD (2015)	<i>State Constitutional Law</i>	This is a writing course focusing on the historical development of state constitutions, their differences from the U.S. Constitution, and the use of state constitutional doctrine in the practice of law.	Spring 2016 Spring 2014 Spring 2012
	<i>Representing the State</i>	Another writing course, this one examines in a systematic way the work of state attorneys general across the country and the special policy, ethical and legal considerations that come to bear on lawyers representing state agencies.	Fall 2015 Fall 2014 Fall 2013 Fall 2012 Fall 2011 Fall 2010 Fall 2009
	<i>Appellate Practice and Procedure</i>	This is a seminar exploring procedural details of handling appeals in state and federal courts. Co-taught with Gregory A. Castanias (all years) and now-Provost Lauren Robel (2008).	Spring 2015 Spring 2013 Spring 2011 Spring 2008

8. Memberships and Other Activities

A. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

ORGANIZATIONS	DATES	OFFICES/ INVOLVEMENT	PURPOSES
INDIANA STATE BAR ASSOCIATION	October 1994-	Member; Appellate Practice Section Participant; Member, Improvements in the Judiciary Committee	Voluntary bar association dedicated to advancement of the law in Indiana; professional development
DISTRICT OF COLUMBIA BAR ASSOCIATION	June 1997-	Member	Integrated bar association; bar membership
AMERICAN BAR ASSOCIATION	Student Division 1991-1994 Lawyer Division c.1994-1997	Member	Voluntary bar association; professional development
SEVENTH CIRCUIT BAR ASSOCIATION	2003-	Member	Voluntary bar association that facilitates relationships among lawyers and judges practicing in the federal courts of the Seventh Circuit; professional development
THE FEDERALIST SOCIETY FOR LAW AND PUBLIC POLICY STUDIES	Student Division 1993-1994 Lawyer Division 1995-	Board of Directors, Indianapolis Lawyers Chapter, 1998-  President, Indianapolis Chapter, 1999-2001	Association of students, lawyers, law professors and others dedicated to the study and debate of important national legal issues; professional development
SAGAMORE AMERICAN INN OF COURT	2008-	Benchler; Executive Council Member (2011- )	Association of lawyers at differing stages of their careers providing CLE programs and mentoring; civic participation, professional development

- B. List any memberships and offices you have held in civic, charitable, or service organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

ORGANIZATIONS	DATES	PURPOSES	OFFICES/ INVOLVEMENT
SECOND PRESBYTERIAN CHURCH, INDIANAPOLIS, IN	2000-	Religious Worship	Nominating Committee for Elders and Deacons (2005) Sanctuary Choir Member (2002-2009) Sanctuary Choir Treasurer (2004-2005) Sanctuary Choir Vice-President (2005-2006) Sanctuary Choir President (2006-2007)
CUB SCOUT PACK 84	2008-2011 2015-	Youth Scouting	Den Leader Pack Committee Member
BROAD RIPPLE-HAVERFORD LITTLE LEAGUE	2008-2015	Youth Baseball and Softball	Assistant Coach (2009, 2010, 2012, 2013) Head Coach (2014, 2015)
BIG BROTHERS-BIG SISTERS OF MONROE COUNTY	1992-1994	Mentor underprivileged children	Big Brother
INDIANA HISTORICAL SOCIETY	2005-	Historical Appreciation	Member
SUPREME COURT HISTORICAL SOCIETY	1998-	Historical Appreciation	Member
THE HUDSON INSTITUTE	1997-2003	Study of Ideas	Member
THE CATO INSTITUTE	1999-2006	Study of Ideas	Member

ORGANIZATIONS	DATES	PURPOSES	OFFICES/ INVOLVEMENT
YMCA OF GREATER INDIANAPOLIS	2001-2012	Family activity, physical fitness	Member Assistant Youth Basketball Coach (2010, 2011)
INDIANA UNIVERSITY ALUMNI ASSOCIATION	2002-	To maintain connections between the university and its alumni; support for the university	Life Member
INDIANA UNIVERSITY MAURER SCHOOL OF LAW ALUMNI BOARD	2010-2015	To advise and assist the Dean and faculty of the law school	Board Member
NATIONAL ASSOCIATION OF WABASH MEN	1991-	To maintain connections between the college and its alumni; support for the college	Automatic Member
WABASH DEMOCRACY AND PUBLIC DISCOURSE INITIATIVE	2014-	To teach constructive engagement, stimulate public discourse, develop civic leadership and promote free speech rights and responsibilities in the marketplace of ideas.	Advisory Committee Member
THE COLUMBIA CLUB	1993 c.1998-2001	Civic social club; dining, physical fitness	Member
KAPPA SIGMA FRATERNITY	1988-	Residential college fraternity; lodging, fellowship	Life Member Pledge Class Vice-President
DELTA THETA PHI	1991-1994	Law school social fraternity; community involvement, professional development, fellowship	Member
MERIDIAN-KESSLER NEIGHBORHOOD ASSOCIATION	c.2001-	Neighborhood Association	Member
IPS SCHOOL 84 PTSA	2008-	Parent-Teacher-Student Association; Participation in Education	Member
DOWNTOWN GOP CLUB	c.2002-2004	Local political party auxiliary; promote Republican candidates	Attended Meetings
MARION COUNTY REPUBLICAN CENTRAL COMMITTEE	1999-2000	Local political party; register voters, get-out-the-vote, promote Republican party candidates	Precinct Committeeman



- C. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.

ORGANIZATIONS	MEMBERSHIP RESTRICTIONS
SECOND PRESBYTERIAN CHURCH Indianapolis, IN	Anyone may attend services and events, but membership is restricted to those who confess agreement with church doctrine; I have made no efforts to eliminate that restriction.
KAPPA SIGMA FRATERNITY	This is a residential college fraternity, though membership is for life. Residential college fraternities and sororities have traditionally sorted themselves by sex, and I have made no efforts to eliminate the accompanying membership restrictions.

D. Describe your hobbies and other leisure activities.

Mostly I enjoy spending time with my wife and our four children, reading, and listening to music. I also listen to books and lectures. For many years I was a regular participant in the Sanctuary Choir at Second Presbyterian Church. The increasing demands of family and professional life, however, have required me to take a break from choral singing, though I hope to get back to it soon. Among other commitments have been stints as coach or assistant coach for our children's sports teams. Also for a few years I served as leader of our son's Cub Scout den. Having played several varsity sports in high school and intramural sports in college and law school, until my late thirties I continued to participate regularly in a variety of competitive sports, including softball and basketball. Injuries have persuaded me to limit sports almost exclusively to playing with our children. I exercise several times per week, and I enjoy riding my bicycle, attending sporting events, going to the movies, and maintaining our garden.

9. Legal Proceedings

- A. List any lawsuits or legal proceedings in any jurisdiction, including but not limited to bankruptcies, dissolutions, and criminal matters to which you have been a party. Provide dates, case numbers, courts, names of other parties, and, if needed, a brief explanation. (If minor children are involved [i.e. an adoption], use initials only.)

CASE	EXPLANATION
<i>Carolina Tobacco Co. v. Angela Watson, et al.</i> , No. 03-CV-423-KL (D. Ore), <i>on appeal</i> , No. 03-35708 (9 <sup>th</sup> Cir.)	I was named as a defendant in my official capacity as a Deputy Attorney General. Plaintiff tobacco company sought declaratory and injunctive relief to release a portion of its monies deposited in escrow pursuant to Ind. Code § 24-3-3-1 <i>et seq.</i> The plaintiff named me on the mistaken understanding that I still enforced that statute on behalf of the Attorney General in April 2003. In all, 18 state deputy AGs, plus an official from the National Association of Attorneys General, were named as defendants. For names of other parties, <b>see Attachment 12</b> . The district court dismissed the case for lack of venue. <b>See Attachment 13</b> . Carolina Tobacco appealed, and on January 8, 2004, while the case was pending in the Ninth Circuit, I was voluntarily dismissed as a party. <b>See Attachment 14</b> .

- B. If you ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution.

**N/A**

- C. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number (if applicable), and describe the circumstances and the nature of the outcome or resolution.

**N/A**

- D. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.

**N/A**

10. References

- A. Provide the names of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Indiana Supreme Court (contact information to be included in Part Two of this application).

**KENNETH J. FALK  
ANDREW W. HULL  
KAREN CELESTINO-HORSEMAN**

- B. Provide the names of three professional references other than those listed in Subsection 10A (contact information to be included in Part Two of this application).

**STEVE CARTER  
MICHAEL S. KANNE  
GREGORY F. ZOELLER**

- C. Provide the names of three personal references other than those listed in Subsection 10A or 10B (contact information to be included in Part Two of this application).

**GREGORY A. CASTANIAS  
CHARLES HAYWOOD  
A. BROOKS PARKER, III, M.D.**

11. State Police Release Form and Photograph

- A. Complete a State Police release form printed on green paper (you may obtain the release form by contacting the Nominating Commission Office at 317-232-4706). Include the release form with the original application only and not with the copies.

**Attached**

- B. Attach a recent photograph of you to the front of the original application and to each copy of your application. (This allows the Commission members to put a face with a name if you are interviewed in person.)

**Attached**

January 21, 2016



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Date

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Applicant Signature

Thomas M. Fisher

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Printed Name

# Waiver and Statement of Consent

The undersigned applicant authorizes the release to the Indiana Judicial Nominating Commission or its staff or agents any records, reports, and documents, whether or not otherwise confidential, which may be requested by the Commission in the performance of its evaluations of candidates pursuant to I.C. § 33-27-3-2. The scope of this authorization extends to, but is not necessarily limited to, requests from the Commission for Federal, State or local tax records, criminal and driving histories from any jurisdiction, attorney and judicial disciplinary records from any jurisdiction, whether pending or closed, and credit reports and histories. The undersigned releases and discharges the Judicial Nominating Commission, its individual members, its employees, agents and representatives, the Indiana State Police, the Indiana Department of Revenue, the Indiana Supreme Court Disciplinary Commission and any other agency or person or their agents or representatives providing information to the Commission from any and all liability arising from the furnishing and use of information concerning the undersigned applicant.

The undersigned agrees and understands that the Indiana Judicial Nominating Commission or its members, agents, or employees may interview or otherwise consult with members of the legal, judicial, and general community concerning the professional qualifications and the integrity of the applicant, that the name of the applicant will be released by the Commission upon its receipt of the application and this waiver, and that if, pursuant to I.C. § 33-27-3-2(d), the applicant is given further consideration as a candidate after the Commission's initial screening of candidates, or if no such screening occurs and all applicants are considered, the application will be made public. This waiver does not constitute an election by the applicant pursuant to I.C. § 33-27-3-2(g)(3)(C) to authorize the release of investigatory records which are excepted from public inspection pursuant to I.C. § 33-27-3-2(g)(1) and (2).

The undersigned agrees to immediately supplement this application upon any event or circumstance substantially affecting any answer provided in the application.

The undersigned acknowledges having read the Instructions attached to the application.

The undersigned agrees to resign from office or membership in any political organization upon submission of this application.

The undersigned affirms that, if nominated by the Judicial Nominating Commission to the Governor and thereafter appointed to this judicial office, the candidate will accept the appointment.

January 21, 2016



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Date

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Applicant Signature

Thomas M. Fisher

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Printed Name